

IN THE HIGH COURT OF BOMBAY AT GOA

MISCELLANEOUS CIVIL APPLICATION NO.373 OF 2001 IN
A.F.O. NO...../2001 (STAMP NO.1702/1.8.2001)

a n d

MISCELLANEOUS CIVIL APPLICATION NO.374 OF 2001 IN
A.F.O. NO...../2001 (STAMP NO.1700/1.8.2001)

1. Mrs. Sunita Hari Prabhu,
2. Shri Hari Bhikaji Prabhu,
both major, married, service,
residents of H.No.755, Near
Flower Pot Restaurant,
Porvorim, Bardez, Goa.....**APPLICANTS**

VERSUS

1. Shri Prabhakar Shripad Dhond,
2. Smt. Pratibha Prabhakar Dhond,
both major, married, residents
of H.No.755, Near Flower Pot
Restaurant, Porvorim,
Bardez, Goa;
3. Smt. Sudha Chandrakant Patkar,
4. Shri Chandrakant D. Patkar,
both major, married, residing
at Near Old Chowgule College,
Gogol, Margao, Goa;
- 5a. Miss Sulochana Surendra Dhond,
- 5b. Miss Gauri Surendra Dhond,
- 5c. Miss Trupti Surendra Dhond,
- 5d. Mast. Sripad Surendra Dhond,
through their legal guardian
Smt. Sulochana Surendra Dhond,
all residents of H.No.318,
Mala, Panaji, Goa;
6. Smt. Lata Vinayak Bhatkuly,
7. Shri Vinayak G. Bhatkuly,
both major, married, residing
at Verem, Bardez, Goa;
8. Smt. Sheetala Purushottam Pai,

9. Shri Purushottam Pai,
both major, married, residing
at Corlim, Old Goa.....RESPONDENTS.

Shri V.R. Tamba, Advocate for the Applicants in
both the Applications.

Shri G.V. Tamba, Advocate for the Respondents
No.1 to 4 in both the Applications.

Shri P.A. Kamat, Advocate for the Respondents
No.5 to 9 in both the Applications.

CORAM : A.S. AGUIAR, J.

DATED : MARCH 15, 2002.

ORAL ORDER

Heard the learned Advocates for the
Applicants and the Respondents on the Application
for condonation of delay.

2. Admittedly, there is a delay of 33
days in filing the above Appeals from, Orders, both
dated 30-3-2001.

3. The Applicants claim that they
learnt of the two Orders passed on 30-3-2001 only
on 21-7-2001. Thereupon they applied for
certified copies of the Orders on 21-7-2001 itself
and were given delivery of the copies on
31-7-2001. The Appeals have been filed on

1-8-2001.

4. If the period of time taken in obtaining the certified copies is taken into consideration, then there is a delay of only 33 days since the Applicants learnt of the Orders dated 30-3-2001 only on 21-7-2001.

5. However, learned Advocate for the Respondents points out that the averment in the application that the Applicants learnt of the impugned Order only on 21-7-2001 is false. Reference is made to the Roznama dated 19-4-2001 on which date the learned Advocate Shri Tamba appeared on behalf of the Applicants and filed an application for removal of the 'cabeca de casal' appointed in place of the original 'cabeca de casal'. The two Appeals filed are from two separate Orders both dated 30th March 2001; one removing the original 'cabeca de casal' and the other appointing another 'cabeca de casal' in place of the one removed.

6. It is manifest from the Roznama of 19-4-2001 that the Applicants were aware of the Orders dated 30-3-2001 prior to 19-4-2001. The averment in the Application for condonation of

delay that the Applicants became aware of the said Orders only on 21-7-2001 is therefore ex facie a false averment. This by itself, in my opinion, disentitles the Applicants to any indulgence from this Court by way of condonation of delay.

7. Hence above Applications for condonation of delay in filing the Appeals rejected and disposed of.

8. In view of the above Order, Appeals under Stamps Nos. 1700 and 1702 also stand dismissed and disposed of.

(A.S. AGUIAR)
JUDGE.

ac.